

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

LANCE REBERGER,

Plaintiff,

vs.

JAMES G. COX, *et al.*,

Defendants.

3:13-cv-00522-MMD-WGC

**ORDER**

This prisoner civil rights action comes before the Court following plaintiff's failure to pay the \$350.00 filing fee in response to the Court's order of October 22, 2013.

Pursuant to 28 U.S.C. § 1915(g), "if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that is frivolous, malicious, or fails to state a claim upon which relief may be granted," he may not proceed *in forma pauperis* and instead must pay the full \$350.00 filing fee in advance, unless he is under "imminent danger of serious physical injury." See *Andrews v. King*, 398 F.3d 1113, 1123 (9<sup>th</sup> Cir. 2005); see also *Rodriguez v. Cook*, 169 F.3d 1176, 1178-82 (9<sup>th</sup> Cir. 1999); *Tierney v. Kupers*, 128 F.3d 1310, 1311-12 (9<sup>th</sup> Cir. 1997).

In the order of October 22, 2013, the Court found that, on at least three occasions, the Court has dismissed civil actions commenced by plaintiff while in

1 detention for failure to state a claim for which relief may be granted. (Dkt. no. 4).<sup>1</sup> The  
2 Court found that, in the complaint, plaintiff failed to plausibly allege that he is under  
3 imminent danger of serious physical injury. (*Id.*). The Court denied plaintiff's  
4 application to proceed *in forma pauperis* and ordered he must pay the full filing fee  
5 within thirty days or his case would be dismissed, pursuant to 28 U.S.C. § 1915(g).  
6 (*Id.*).

7 Plaintiff has not paid the filing fee or otherwise responded to the Court's order of  
8 October 22, 2013. Plaintiff, having failed to pay the filing fee for this action and having  
9 failed to demonstrate that he is under imminent danger of serious physical injury, has  
10 not made the showing required by 28 U.S.C. § 1915(g) to allow his complaint to  
11 proceed.

12 **IT IS THEREFORE ORDERED** that this action is **DISMISSED** without prejudice  
13 for failure to pay the filing fee. The Clerk of Court shall enter final judgment accordingly.

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15 Dated this 7th day of January, 2014.

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19 MIRANDA M. DU  
20 UNITED STATES DISTRICT JUDGE  
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27 <sup>1</sup> See *Reberger v. Cox*, 2:10-cv-02022-GMN-GWF; *Reberger v. Suter*, 3:11-cv-00073-LRH-RAM; *Reberger v. Offender*  
28 *Management Division*, 3:12-cv-00293-LRH-VPC. The Court takes judicial notice of its prior records in the above matters.